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Attorneys for Defendant
WASHINGTON MUTUAL BANK, formerly known as
WASHINGTON MUTUAL BANK, FA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

VERONICA LATREASE JORDAN and
KAREN L. JONES-BOYLE, individually, and
on behalf of all others similarly situated,

Plaintiff,

vs.

WASHINGTON MUTUAL BANK, FA,

Defendant.

Case No. CV-08-2142-RS

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION OF DEFENDANT
WASHINGTON MUTUAL BANK TO
DISMISS FIRST AMENDED
COMPLAINT**

Hearing

Date: September 17, 2008

Time: 9:30 a.m.

Ctrm.: 4

Defendant Washington Mutual Bank (“WMB”) hereby requests that this Court take judicial notice of the following facts and documents pursuant to Federal Rule of Evidence 201. See United States v. Chapel, 41 F.3d 1338, 1342 (9th Cir. 1994) (fact of bank’s FDIC-insured status was proper subject of judicial notice); United States v. Phillips, 427 F.2d 1035, 1037 (9th Cir. 1970) (same).

1. WMB is a federal savings association located in Henderson, Nevada. Effective October 1, 1997, former American Savings Bank, F.A. amended Federal Stock Charter No. 4539, declared effective on December 28, 1988 by the Federal Home Loan Bank Board, to change its corporate title to Washington Mutual Bank, FA. Effective April 4, 2005, Washington Mutual Bank, FA amended its Federal Stock Charter to change its name to Washington Mutual Bank. Attached hereto as Exhibit A are true and correct copies of Federal Stock Charter No. 4539; Certificate of Secretary dated April 4, 1998; and Amendment to Federal Stock Charter (No. 4539) effective April 4, 2005.

2. Attached hereto as Exhibit B is a print-out of data accessed through the Federal Financial Institutions Examination Council’s website reflecting Washington Mutual Bank’s merger into Washington Mutual Bank, FA on January 1, 2005.

3. Attached hereto as Exhibit C is the 12-Month Treasury Average index accessed on July 18, 2008.

Dated: July 18, 2008

STROOCK & STROOCK & LAVAN LLP
JULIA B. STRICKLAND
LISA M. SIMONETTI
DEBORAH E. BARACK

By: /s/ Deborah E. Barack
Deborah E. Barack

Attorneys for Defendant
WASHINGTON MUTUAL BANK, formerly
known as WASHINGTON MUTUAL
BANK, FA

EXHIBIT A

Charter No. 4539

FEDERAL STOCK CHARTER

American Savings Bank, F.A.
Stockton, California

Section 1. Corporate Title. The full corporate title of the savings bank is American Savings Bank, F.A.

Section 2. Office. The home office shall be located in Stockton, California.

Section 3. Duration. The duration of the savings bank is perpetual.

Section 4. Purpose and Powers. The purpose of the savings bank is to pursue any or all of the lawful objectives of a Federal savings bank chartered under section 5 of the Home Owners' Loan Act and to exercise all of the express, implied, and incidental powers conferred thereby and by all acts amendatory thereof and supplemental thereto, subject to the Constitution and laws of the United States as they are now in effect, or as they may hereafter be amended, and subject to all lawful and applicable rules, regulations, and orders of the Federal Home Loan Bank Board ("Board"). In addition, the savings bank may make any investment and engage in any activity as may be specifically authorized by action of the Board, including authorization by delegated authority, in connection with action approving the issuance of the charter.

Section 5. Capital Stock. The total number of shares of all classes of the capital stock which the savings bank has the authority to issue is 1,100,000 of which 1,000,000 shall be common stock of par value of \$1.00 per share and of which 100,000 shall be serial preferred stock of par value \$.01. The shares may be issued from time to time as authorized by the board of directors without the approval of its shareholders, except as otherwise provided in this Section 5 or to the extent that such approval is required by governing law, rule, or regulation. The consideration for the issuance of the shares shall be paid in full before their issuance and shall not be less than the par value. Neither promissory notes nor future services shall constitute payment or part payment for the issuance of shares of the savings bank. The consideration for the shares shall be cash, tangible or intangible property (to the extent direct investment in such property would be permitted to the savings bank), labor, or services actually performed for the savings bank, or any combination of the foregoing. In the absence of actual fraud in the transaction, the value of such property, labor, or services, as determined by the board of directors of the savings bank, shall be conclusive. Upon payment of such consideration, such shares shall be deemed to be fully paid and nonassessable. In the

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case of a stock dividend, that part of the surplus of the savings bank which is transferred to stated capital upon the issuance of shares as a share dividend shall be deemed to be the consideration for their issuance.

Except for shares issuable in connection with the conversion of the savings bank from the mutual to stock form of capitalization, no shares of capital stock (including shares issuable upon conversion, exchange or exercise of other securities) shall be issued, directly or indirectly, to officers, directors, or controlling persons of the savings bank other than as part of a general public offering or as qualifying shares to a director, unless the issuance or the plan under which they would be issued has been approved by a majority of the total votes eligible to be cast at a legal meeting.

Nothing contained in this Section 5 (or in any supplementary sections hereto) shall entitle the holders of any class of a series of capital stock to vote as a separate class or series or to more than one vote per share, except as to the cumulation of votes for the election of directors: Provided, that this restriction on voting separately by class or series shall not apply:

(i) To any provision which would authorize the holders of preferred stock, voting as a class or series, to elect some members of the board of directors, less than a majority thereof, in the event of default in the payment of dividends on any class or series of preferred stock;

(ii) To any provision which would require the holders of preferred stock, voting as a class or series, to approve the merger or consolidation of the association with another corporation or the sale, lease, or conveyance (other than by mortgage or pledge) of properties or business in exchange for securities of a corporation other than the savings bank if the preferred stock is exchanged for securities of such other corporation: Provided, that no provision may require such approval for transactions undertaken with the assistance or pursuant to the direction of the Federal Savings and Loan Insurance Corporation;

(iii) To any amendment which would adversely change the specific terms of any class or series of capital stock as set forth in this Section 5 (or in any supplementary sections hereto), including any amendment which would create or enlarge any class or series ranking prior thereto in rights and preferences. An amendment which increases the number of authorized shares of any class or series of capital stock, or substitutes the surviving association in a merger or consolidation for the savings bank shall not be considered to be such an adverse change.

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A description of the different classes and series (if any) of the savings bank's capital stock and a statement of the designations, and the relative rights, preferences, and limitations of the shares of each class of and series (if any) of capital stock are as follows:

A. Common stock. Except as provided in this Section 5 (or in any supplementary sections thereto) the holders of the common stock shall exclusively possess all voting power. Each holder of shares of common stock shall be entitled to one vote for each share held by such holder, except as to the cumulation of votes for the election of directors.

Whenever there shall have been paid, or declared and set aside for payment, to the holders of the outstanding shares of any class of stock having preference over the common stock as to the payment of dividends, the full amount of dividends and of sinking fund, retirement fund, or other retirement payments, if any, to which such holders are respectively entitled in preference to the common stock, then dividends may be paid on the common stock and on any class or series of stock entitled to participate therewith as to dividends out of any assets legally available for the payment of dividends.

In the event of any liquidation, dissolution, or winding up of the savings bank, the holders of the common stock (and the holders of any class or series of stock entitled to participate with the common stock in the distribution of assets) shall be entitled to receive, in cash or in kind, the assets of the savings bank available for distribution remaining after: (i) payment or provision for payment of the savings bank's debts and liabilities; (ii) distributions or provision for distributions in settlement of its liquidation account; and (iii) distributions or provisions for distributions to holders of any class or series of stock having preference over the common stock in the liquidation, dissolution, or winding up of the savings bank. Each share of common stock shall have the same relative rights as and be identical in all respects with all the other shares of common stock.

B. Preferred stock. The association may provide in supplementary sections to its charter for one or more classes of preferred stock, which shall be separately identified. The shares of any class may be divided into and issued in series, with each series separately designed so as to distinguish the shares thereof from the shares of all other series and classes. The terms of each series shall be set forth in a supplementary section to the charter. All shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series;

(a) The distinctive serial designation and the number of shares constituting such series;

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(b) The dividend rate or the amount of dividends to be paid on the shares of such series, whether dividends shall be cumulative and, if so, from which date(s) the payment date(s) for dividends, and the participating or other special rights, if any, with respect to the dividends;

(c) The voting powers, full or limited, if any, of shares of such series;

(d) Whether the shares of such series shall be redeemable and, if so, the price(s) at which, and the terms and conditions on which such shares may be redeemed;

(e) The amount(s) payable upon the shares of such series in the event of voluntary or involuntary liquidation, dissolution, or winding up of the savings bank;

(f) Whether the shares of such series shall be entitled to the benefit of a sinking or retirement fund to be applied to the purchase or redemption of such shares, and if so entitled, the amount of such fund and the manner of its application, including the price(s) at which such shares may be redeemed or purchased through the application of such fund;

(g) Whether the shares of such series shall be convertible into, or exchangeable for, shares of any other class or classes of stock of the savings bank and, if so, the conversion price(s) or the rate(s) of exchange, and the adjustments thereof, if any, at which such conversion or exchange may be made, and any other terms and conditions of such conversion or exchange;

(h) The price or other consideration for which the shares of such series shall be issued; and

(i) Whether the shares of such series which are redeemed or converted shall have the status of authorized but unissued shares of serial preferred stock and whether such shares may be reissued as shares of the same or any other series of serial preferred stock.

Each share of each series of serial preferred stock shall have the same relative rights as and be identical in all respects with all the other shares of the same series.

The board of directors shall have authority to divide, by the adoption of supplementary charter sections, any authorized class of preferred stock into series, and, within the limitations set forth in this section and this charter, fix and determine the relative rights and preferences of the shares of any series so established.

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Prior to the issuance of any preferred shares of a series established by a supplementary charter section adopted by the board of directors, the savings bank shall file with the Secretary to the Federal Home Loan Bank Board a dated copy of that supplementary section of this charter established and designating the series and fixing and determining the relative rights and preferences thereof.

Section 6. Preemptive Rights. Holders of the capital stock of the savings bank shall not be entitled to preemptive rights with respect to any shares of the savings bank which may be issued.

Section 7. Directors. The savings bank shall be under the direction of a board of directors. The authorized number of directors, as stated in the savings bank's bylaws, shall not be fewer than three nor more than fifteen except when a greater number is approved by the Board.

Section 8. Amendment of Charter. Except as provided in Section 5, no amendment, addition, alteration, change or repeal of this charter shall be made, unless such is first proposed by the board of directors of the savings bank, then preliminarily approved by the Board, which preliminary approval may be granted by the Board pursuant to regulations specifying preapproved charter amendments, and thereafter approved by the shareholders by a majority of the total votes eligible to be cast at a legal meeting. Any amendment, addition, alteration, change, or repeal so acted upon shall be effective upon filing with the Board in accordance with regulatory procedures or on such other date as the Board may specify in its preliminary approval.

Attest:

American Savings Bank, F.A.

C. G. Smith
Secretary of the Savings Bank

By: [Signature]
~~Chairman of the Board and~~
Chief Executive Officer

Declared effective this 28 day of December, 1988.

Attest:

FEDERAL HOME LOAN BANK BOARD

[Signature]
Secretary to the Board

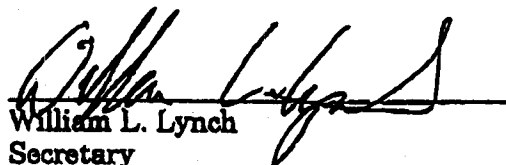
By: Deborah E. Sigel-ove

WASHINGTON MUTUAL BANK, FA
CERTIFICATE OF SECRETARY

I, William L. Lynch, Secretary of Washington Mutual Bank, FA, formerly known as American Savings Bank, F.A. (the "Association") hereby certify that the following statements are true and correct:

1. The Association is a federal savings association duly authorized and existing under the laws of the United States of America, specifically, the Home Owners' Loan Act, 12 U.S.C. Section 1461 et seq.
2. A true and correct copy of the Association's Federal Stock Charter No. 4539 is attached.
3. Effective October 1, 1997, the Association amended its Federal Stock Charter to change its corporate title from American Savings Bank, F.A. to Washington Mutual Bank, FA, as set forth in a notice appropriately filed and accepted by the Office of Thrift Supervision West Region by official stamp affixed to the Consent of Shareholders in Lieu of Meeting dated September 23, 1997, a true and correct copy of which is attached.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6th day of April, 1998.

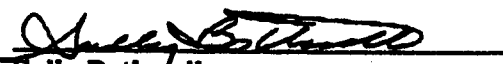

William L. Lynch
Secretary

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that William L. Lynch is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Secretary of Washington Mutual Bank, FA to be the free and voluntary act of such part for the uses and purposes mentioned therein.

Dated this 6th day of April, 1998.




Sally Bothwell
Notary Public in and for the State of
Washington, residing at Kirkland.
My commission expires: 12-31-2000



Office of Thrift Supervision
Department of the Treasury

1700 G Street, N.W., Washington, D.C. 20552 • (202) 906-6000

CERTIFICATE OF SUCCESSION IN INTEREST

REFERENCE: Washington Mutual Bank
Seattle, Washington

Washington Mutual Bank, FA
Stockton, California

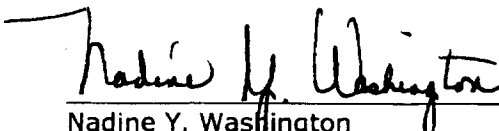
SUCCESSOR: Washington Mutual Bank
Stockton, California

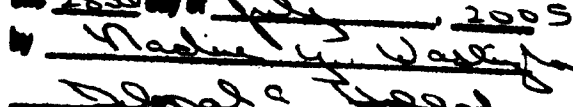

I, Nadine Y. Washington, Corporate Secretary, Office of Thrift Supervision, hereby certify, according to the records of the Office of Thrift Supervision, Department of the Treasury, Washington, DC:

1. Washington Mutual Bank, Seattle, Washington, was organized under the laws of the State of Washington to transact the business of a State savings bank;
2. Effective December 20, 2004, Washington Mutual Bank, Seattle, Washington, converted from a State-chartered savings bank to a Federally-chartered savings bank under the corporate title of Washington Mutual Bank, Seattle, Washington;
3. Effective January 1, 2005, Washington Mutual Bank, Seattle, Washington, merged with and into Washington Mutual Bank, FA, Stockton, California, and Washington Mutual Bank, FA, Stockton, California, was the resulting institution; and
4. Effective April 4, 2005, the Federal Stock Charter of Washington Mutual Bank, FA, Stockton, California, was amended to change its corporate title to Washington Mutual Bank, and its Bylaws were amended to provide that Washington Mutual Bank also may do business under the name "Washington Mutual Bank, FA".

DATED this 28th day of July 2005.




Nadine Y. Washington
Corporate Secretary

Notary of Columbia : 06
The foregoing instrument was acknowledged before me
this 28th day of July, 2005
by 

Donald A. Thomas, Notary Public, D.C.
My commission expires October 31, 2009

**WASHINGTON MUTUAL BANK, FA
BOARD OF DIRECTORS RESOLUTION**

AMENDMENT TO FEDERAL STOCK CHARTER (No. 4539)

RESOLVED, that Section 1 of the Federal Stock Charter of the Association (the "Charter") is hereby amended as follows:

Section 1. Corporate Title. The corporate title of the savings bank is Washington Mutual Bank.

AMENDMENT TO BYLAWS

RESOLVED FURTHER, that Article I, Section 1 of the Bylaws of the Association shall be amended in its entirety to read as follows:

Section 1. Corporate Title and Name. The full corporate title of the savings bank is Washington Mutual Bank. The savings bank also may do business under the name Washington Mutual Bank, FA.

RESOLVED FURTHER, that the foregoing amendments shall become effective as of April 4, 2005.

RESOLVED FURTHER, that the Senior Executive Vice President, the Secretary and the Assistant Secretary, and each of them acting alone, are hereby authorized to execute and deliver any and all documents, and to take such other actions, as may be necessary or appropriate to effect such amendments.



| | |
|---|---|
|  | OTS West Region |
| Notification of: | |
| <input type="checkbox"/> Approval | <input checked="" type="checkbox"/> Notice Appropriately |
| <input checked="" type="checkbox"/> No Objection | <input type="checkbox"/> Filed and Accepted |
| <input type="checkbox"/> File Closed | <input type="checkbox"/> Compliance Materials |
| <input type="checkbox"/> No Further Action | <input type="checkbox"/> Filed and Accepted |
| Required | <input checked="" type="checkbox"/> As of: <u>3/02/05</u> |
| By: <u>Penny D. Marshall</u> | |
| Title: <u>Regional Applications</u> | |
| <u>Manager</u> | |

EXHIBIT B



National Information Center

A repository of financial data and institution characteristics collected by the Federal Reserve System

| | | | | | |
|----------|--------------------|------------|-------------|--------------------|-----|
| NIC Home | Institution Search | FBO Search | Top 50 BHCs | BHCPR Peer Reports | FAQ |
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Institution History for WASHINGTON MUTUAL BANK (1222108)

5 institution history record(s) found.

| Event Date | Historical Event |
|------------|---|
| 1988-09-06 | AMERICAN SAVINGS, A FEDERAL SAVINGS AND LOAN ASSOCIATION located at 343 EAST MAIN STREET, STOCKTON, CA was established as a Savings & Loan Association. |
| 1988-12-28 | AMERICAN SAVINGS, A FEDERAL SAVINGS AND LOAN ASSOCIATION was renamed to AMERICAN SAVINGS BANK, F. A. and moved to 400 EAST MAIN STREET STOCKTON, CA and changed from Savings & Loan Association to Federal Savings Bank. |
| 1997-10-01 | AMERICAN SAVINGS BANK, F. A. was renamed to WASHINGTON MUTUAL BANK, FA. |
| 2005-04-04 | WASHINGTON MUTUAL BANK, FA was renamed to WASHINGTON MUTUAL BANK. |
| 2005-09-23 | WASHINGTON MUTUAL BANK moved to 2273 NORTH GREEN VALLEY PARKWAY HENDERSON, NV. |

EXHIBIT C

,Instrument,"U.S. government securities/Treasury constant maturities/Nominal"
,Maturity,"1-year"
,Frequency,"Monthly"
,Description,"Market yield on U.S. Treasury securities at 1-year constant maturity"
,Note,"Yields on actively traded non-inflation-indexed issues adjusted to constant

DATE , TCMNOMY1

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12 month average = 2.367

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| 06/2005, | 3.36 |
| 07/2005, | 3.64 |
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| 01/2008, | 2.71 |
| 02/2008, | 2.05 |
| 03/2008, | 1.54 |
| 04/2008, | 1.74 |
| 05/2008, | 2.06 |
| 06/2008, | 2.42 |

12 month average = 5.022